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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,723	06/12/2001	Martin K. Tarvydas	INFS-1-16372	4943
20322	7590	01/10/2006	EXAMINER	
SNELL & WILMER ONE ARIZONA CENTER 400 EAST VAN BUREN PHOENIX, AZ 850040001			RHODE JR, ROBERT E	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/880,723

Applicant(s)

TARVYDAS ET AL

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 9 - 16, 28 - 39, 41 - 42 and 47 - 51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 17-27, 40 and 43-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The Restriction Election of Group I in the reply filed on 10-28-05 is acknowledged. The Applicant traversal is on the ground(s) that searching all the claims would not be a burden on the Examiner. This is not found persuasive because the each of the newly amended claim Groups are in different class and/or subclass.

Claims 9 – 16, 28 – 39, 41 - 42 and 47 – 51 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10-28-05.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 3, 22 – 23, 25 – 26, 40, 45 and 46 are rejected under 35**

**U.S.C. 102(e) as being anticipated by Musgrove (US 6,725,22 B1).**

Regarding claim 1 and related claims 40, 45 and 46, Musgrove teaches a method and apparatus of processing product orders, via a network, to allow consumers to order products from a plurality of merchants from a web page comprising a consistent user interface, comprising the steps of:

Retrieving a universal shopping cart; searching a local database for information relating to a product prior to searching a plurality of websites for said information; displaying said information from said plurality of websites within said web page comprising a consistent user interface; receiving a product selection command from a consumer indicative of selecting a product; assign said selected product to said universal shopping cart; and injecting a product order to one of the plurality of merchants associate with said selected product in said universal shopping cart (see at least Abstract, Col 2, lines 28 – 55, Col 5, lines 30 – 36, Col 9, lines 1 – 4 and Figures 1 – 4).

Regarding claim 3, Musgrove teaches a method, further comprising authenticating an identity of the consumer, and exiting the product order process when said identity of the consumer cannot be authenticated (see at least Col 5, lines 45 - 47).

Regarding claim 22, Musgrove teaches a method, wherein said product information includes information on a plurality of products of the same product type sold by a

plurality of merchants to allow the consumer to view product information on said web page comprising a consistent user interface in order to and compare products of the same product type sold by different merchants using the consistent user interface (Abstract and Col 5, lines 30 - 40) and (claim 23) further comprising assigning a product key to each of said at least one selected product to uniquely identify each of said at least one selected product and a merchant associated with said at least one selected product (Figures 3 and 4).

Regarding claim 25, Musgrove teaches a method, further comprising obtaining an order confirmation from said merchant; and notifying the consumer of said order confirmation (Page 16, lines 36 -38).

Regarding claim 26, the Examiner takes Official Notice that online methods for a method, further comprising determining shipping information from said merchant; and notifying the consumer of said shipping information is old and well known to one of ordinary skill. Thereby, one of ordinary skill would have been motivated to extend the method and apparatus of Musgrove with a method and apparatus with further comprising determining shipping information from said merchant; and notifying the consumer of said shipping information – in order to ensure the consumer can chose and thereby ensure they select the correct shipping.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 2 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruno (US 6,320,952 B1).**

Musgrove substantially discloses and teaches the Applicant's invention.

While Musgrove does disclose a cart to be used in universally shopping across a plurality of merchants, the reference does not specifically disclose and teach a method, wherein retrieving said universal shopping cart comprises determining whether an existing universal shopping cart is associated with the customer; and creating a new universal shopping cart when no existing universal shopping cart is associated with the customer; nor a method, wherein said universal shopping cart is retrieved from a universal shopping cart database that includes consumer information and information on any previously saved product items.

On the other hand and regarding claim 2, Bruno teaches a method, wherein retrieving said universal shopping cart comprises determining whether an existing universal shopping cart is associated with the customer; and creating a new universal shopping cart when no existing universal shopping cart is associated with the customer (Col 8, 17 - 28).

Regarding claim 24, Bruno teaches a method, wherein said universal shopping cart is retrieved from a universal shopping cart database that includes consumer information and information on any previously saved product items (Col 8, lines 17 – 28)

It would have been would have been obvious to one of ordinary skill in the art to have provided the method of Musgrove with the method of Bruno to have enabled a method wherein retrieving said universal shopping cart comprises determining whether an existing universal shopping cart is associated with the customer; and creating a new universal shopping cart when no existing universal shopping cart is associated with the customer; nor a method, wherein said universal shopping cart is retrieved from a universal shopping cart database that includes consumer information and information on any previously saved product items. Musgrove discloses the method as recited in claim 1. In turn, Bruno discloses a method wherein retrieving said universal shopping cart comprises determining whether an existing universal shopping cart is associated with the customer; and creating a new universal shopping cart when no existing universal shopping cart is associated with the customer; nor a method, wherein said universal shopping cart is retrieved from a universal shopping cart database that includes consumer information and information on any previously saved product items (see at least Col 8, lines 17 – 28). Therefore, one of ordinary skill in the art would have been motivated to extend the method of Musgrove with a method wherein retrieving said universal shopping cart comprises determining whether an existing universal

shopping cart is associated with the customer; and creating a new universal shopping cart when no existing universal shopping cart is associated with the customer; nor a method, wherein said universal shopping cart is retrieved from a universal shopping cart database that includes consumer information and information on any previously saved product items. In this manner, the consumer could leave the site and save the cart as wish list to check again and possible purchase for someone – without trying to remember the specific items on the list.

**Claims 4 – 6, 17 – 21, 27 and 43 - 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove (US 6,725,222 B1) view of Ferguson (US 5,966,697).**

Musgrove disclose and teach substantially the applicant's invention.

However, the Musgrove does not specifically disclose and teach a method, system and apparatus capable of retrieving reputation, authentication, minimum payments, searching for products, billing information, receiving orders at a merchant system.

On the other hand and in the same area of shopping across multiple online merchants and regarding claim 4 and related claim 5, Ferguson teaches a method, further comprising retrieving reputation information on the consumer from a reputation database and sending said reputation information to said at least one selected



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merchant (Col 9, 54 – 65 and Col 10, line 60). Please note that a reputation of most consumers is based on and checked regarding their credit rating via a credit bureau. This checking is done both online and offline and is widely accepted by shoppers. However, the step of requesting individual online merchant's to release information about their individual online shoppers is serious privacy issue and not one that merchant's will knowingly violate by revealing information on shoppers. Indeed, this would expose the online merchant's to extreme litigation risk that would be unacceptable due to privacy violations and not a prudent step to take for any online or offline merchant – for business reasons as well as legal and ethical reasons.

Regarding claim 6, Ferguson teaches a method, wherein said step of injecting at least one product order comprises authenticating an identity of said at least one selected merchant, and injecting at least one product order to said at least one merchant associated with said at least one selected product when the identity of said at least one merchant is authenticated (Figure 8).

Regarding claim 17, Ferguson teaches a method, further comprising receiving a product type criteria, and searching for information on products provided by said at least one merchant that match said product type criteria (Col 2, lines 33 – 34) and (claim 18) wherein searching further comprises querying a product database having pre-stored product information (Col 3, lines 33 – 34 and Figures 1 and 2) and (claim 19) wherein searching is conducted on the Internet (Figure 1) as well as (claim 20) wherein

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searching further comprises scraping at least one merchant Web site to obtain product information (Col 2, lines 33 – 34) and (claim 21) wherein scraping a merchant Web site comprises accessing said merchant Web site; searching for information on products in said merchant Web site that match the product type criteria; retrieving said information on products; and exiting said merchant Web site (Col 2, lines 33 – 54 and Col 16, lines 17 – 31). Please note that Ferguson does not specifically disclose, “scraping”. However, Ferguson does disclose searching for a product, obtaining the information as well as exiting. With regard to scraping, the process of obtaining information from a site on a network using “scraping” techniques is old and well known. Thereby, one of ordinary skill in the art at the time of the invention would have been motivated to extend the method of Ferguson with a scraping step in order to access and retrieve the information

Regarding claim 27, Ferguson does not specifically disclose wherein the consumer is an electronic agent of a human consumer is also known as shop bots or shopping bots. In that regard, the method of using shopping bots was old and well known at the time of the applicant’s invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have enabled the method of Ferguson with shopping bots. In this manner, the customer satisfaction would have been increased due to the additional features to ease the applicant’s shopping process.

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Regarding claim 43, Ferguson teaches an apparatus further comprising a merchant server for providing product information and receiving product orders injected by said processing unit (Abstract and Figure 1).

Regarding claim 44, Ferguson teaches an apparatus, wherein said merchant server comprises a network interface for interfacing the network; a memory for storing a purchase service program; and a processing unit that processes the product orders according to said purchase service program (Abstract and Figures 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and apparatus of Musgrove with the method and system with apparatus of Ferguson to have enabled a method, system and apparatus with computer readable medium of retrieving reputation, authentication, minimum payments, searching for products, billing information, receiving orders at a merchant system.

Musgrove discloses a method and apparatus as recited in claim 1. In turn, Ferguson discloses a method a method, system with apparatus including a computer readable medium of retrieving reputation, authentication, minimum payments, searching for products, billing information, receiving orders at a merchant system (Abstract and Figures 1 – 8). Therefore, one of ordinary skill in the art would have been motivated to extend the method, system and apparatus with a method, system and apparatus of retrieving reputation, authentication, minimum payments, searching for products, billing information, receiving orders at a merchant system.

**Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove in view of alexa.com screen captures via the WayBackMachine (archieve.org) and dated Feb 29, 2000 (hereafter referred to as "Alexa").**

Musgrove discloses and teaches substantially the Applicant's invention.

However, Musgrove does not specifically disclose and teach a method, further comprising retrieving reputation information on said at least one selected merchant from a reputation

On the other hand and regarding claim 7 and related claim 8, Alexa teaches a method, further comprising retrieving reputation information on said at least one selected merchant from a reputation database (Page 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provided the method of Musgrove with the method and system of Alexa to have enabled a method and system further comprising retrieving reputation information on said at least one selected merchant from a reputation database – in order to provide shoppers with relative ratings on each merchant.

Musgrove discloses a method as recited in claim 1. In turn, Alexa discloses a method; further comprising retrieving reputation information on said at least one selected

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merchant from a reputation database (Page 2). Therefore, one of ordinary skill in the art would have been motivated to extend Musgrove with a method and system comprising retrieving reputation information on said at least one selected merchant from a reputation database. In this manner, the shoppers satisfaction will be increased due to a more complete review of a merchant and thereby increase the probability that they will recommend the site to others.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 - 51 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is "SmartShop.com Simplifies the Online Shopping Experience; New Site Promises to Redefine Internet Shopping"; Business Editors; Business Wire; Nov 29, 1999.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 7:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

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Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

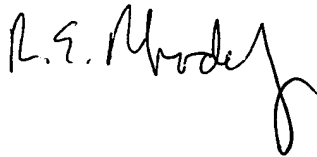
**571.273.8300**

[Official communications; including

After Final communications labeled

"Box AF"]

RER

A handwritten signature in black ink, appearing to read "R. S. Mordy". The signature is written in a cursive style with a large, looping "M" and a long, sweeping tail.